

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ALLA MEDVEDEVA,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

Case No. 17 Civ. 5739 (WFK) (LB)

v.

ASSISTCARE HOME HEALTH SERVICES
LLC (d/b/a PREFERRED HOME CARE OF
NEW YORK and PREFERRED HOME
CARE OF NEW YORK LLC),

Defendant.

**DECLARATION OF STEVEN L. WITTELS IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANT'S MOTION TO DISMISS THE COMPLAINT
PURSUANT TO RULE 12(B)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

I, Steven L. Wittels, declare as follows under the penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. My firm, Wittels Law, P.C., is Lead Counsel for Plaintiff Ms. Medvedeva and the proposed collective and class, together with co-counsel The Hymowitz Law Group. We represent Plaintiff Ms. Medvedeva, who is a former home care worker at Preferred Home Care of New York LLC (“Preferred” or “Defendant”).

2. I make this Declaration in support of Plaintiff’s Opposition to Defendant’s Motion to Dismiss the Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and to authenticate the attached documents referenced in the accompanying Memorandum of Law.

3. Attached hereto as Exhibit 1 is a true and correct copy of the U.S. Department of Labor’s press release dated September 17, 2013.

4. Attached hereto as Exhibit 2 is a chart summarizing the district courts’ rulings on the effective date of the Department of Labor FLSA Companionship Services Regulation.

5. Attached hereto as Exhibit 3 is DOL Domestic Service Final Rule FAQs.

6. Attached hereto as Exhibit 4 is NYS Department of Health FLSA Overtime Rule FAQs.

7. Attached hereto as Exhibit 5 is a true and correct copy of the calculation of the spread of hours damages awarded in *Wing Kwong Ho v. Target Construction of NY, Corp.*, No. 08 Civ. 4750 (KAM) (RER), 2011 WL 1131510, at *16 (E.D.N.Y. Mar. 28, 2011) for a plaintiff with an hourly rate between \$10 and \$13.13 dollars per hour.

8. Attached hereto as Exhibit 6 is a true and correct copy of Ms. Medvedeva’s pay stub for “Check Number 124337.”

9. Attached hereto as Exhibit 7 is a true and correct copy of Ms. Medvedeva's pay stub for "Check Number 137685."

I declare under penalty of perjury that the foregoing is true and correct.

Executed: September 10, 2018
Armonk, New York

By: /s/ Steven L. Wittels
Steven L. Wittels (SW-8110)

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